



Ontario

Select Committee on the Ombudsman

Twelfth Report 1984

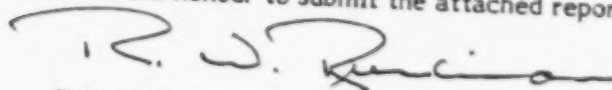
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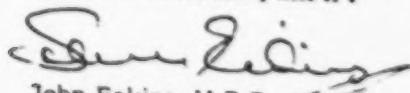
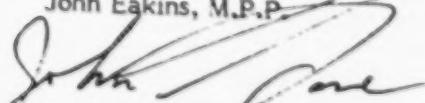
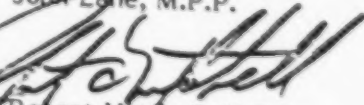
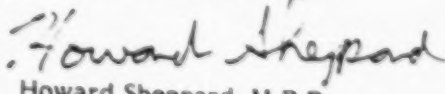
The Honourable John M. Turner, M.P.P.
Speaker of the Legislative Assembly

Sir,

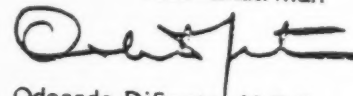
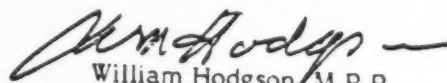
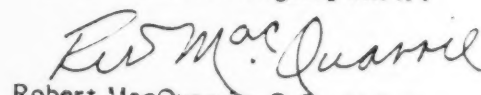
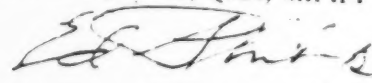
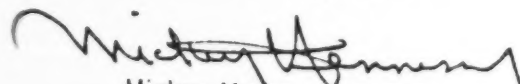
We the undersigned Members of the Select Committee on the Ombudsman
have the honour to submit the attached report.



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TWELFTH REPORT OF THE SELECT COMMITTEE ON THE OMBUDSMAN

PART I Introduction

The Committee wishes to honour the memory of James A. Renwick, Q.C., M.P.P., Member for Riverdale until his untimely death on November 27, 1984 and first Chairman of this Committee. It is too soon to fully comprehend the magnitude of this loss to the Assembly and to the people of Ontario.

Jim Renwick would have felt awkward hearing the superlatives attributed to him in recent days concerning his intelligence, integrity, grace, compassion and contribution to the people of Ontario. The Committee therefore will not repeat those words of praise, true as they are. Instead it wishes simply to say that its members share the deep sense of personal loss. The dedication of this Report to his memory is a small way of acknowledging his contributions to the Office of Ombudsman of Ontario and to this Committee.

The Committee was also saddened at the death of Ontario's first Ombudsman, Arthur Maloney, Q.C. Many words have been spoken and written since his death praising his accomplishments as a lawyer, politician, Ombudsman and humanitarian. In particular, his accomplishments while Ombudsman have yet to be fully recognized and appreciated. He was truly the people's representative. Perhaps that is his greatest legacy.

The Committee has recommended in Part VIII of this Report that the Legislature adopt its Special Report tabled in March, 1983. This Report was prepared by the Committee as a result of the Resolution tabled in the Legislature by the late Jim Renwick and approved unanimously by all members, which dealt with international human rights issues and an appropriate role to be played by this House in those issues. The Committee urges all members to adopt this Special Report. It will serve as a suitable testimony to his memory.

Dr. Hill's approach with the Committee and with senior members of various government organizations who appeared before the Committee, was low-key and non-adversarial. Matters arising which were potentially contentious, were dealt with candidly, openly and willingly. There was no debate whether matters were

properly within the jurisdiction of the Committee. There was no tendency for the Committee or the Ombudsman to "take sides" on any particular issue. The Committee commends the Ombudsman for the style he has adopted. It will foster an even stronger sense of mutual respect which can only benefit the Office of the Ombudsman.

The Committee does not expect that the Ombudsman will agree with it on every issue which is addressed. In fact it is to be expected that the Ombudsman's view on some matters will be different than the Committee or any of its members. However, with the adoption of a co-operative style, the Committee is confident that where matters of disagreement do arise, they can be dealt with in a context of full and frank discussions wherein the Ombudsman and the Committee work together towards an appropriate solution.

The Committee is pleased to report that it has adopted with the Ombudsman and governmental organizations who are involved with "recommendation denied" cases a procedure which clarifies the issues relevant to the Committee's concern and enables the Committee to deal with those issues more efficiently and effectively.

The Ombudsman and the governmental organizations concerned were required to agree upon and prepare a synopsis of each recommendation denied case. Each synopsis contained a statement of facts and issues which the parties agreed were relevant to the Committee's deliberations. Each also contained a statement of the relative positions of the Ombudsman and the governmental organization concerned and the reasons for these positions. The process of preparation of these synopses contributed to a resolution of a number of the outstanding recommendation denied cases. Obviously the requirement that the parties "get together" to prepare a joint statement encourages the settlement process.

The Committee will be employing this procedure whenever it considers recommendation denied cases. The Ombudsman and the governmental organization who will be affected should begin preparing these statements as soon as it becomes apparent that a recommendation will be "denied". In fact the Ombudsman should

consider incorporating this process during the early stage of his investigation of complaints as a possible means of resolving outstanding issues.

After the first half-year, Dr. Hill has decided that his office needs to provide a "faster and better service...throughout the Province." The Committee concurs with this view. There continues to be a need for improvement, particularly in the time taken to process a number of complaints from the public. It is too early to pursue with Dr. Hill the particular methods he intends to employ to make these improvements. It will be a matter of continuing discussion with him.

In his Eleventh Report, Dr. Hill identified some "systemic problems" which in his opinion cause or contribute to certain matters of maladministration within the public service. His comments were limited to three "problems" involving the Workers' Compensation Board. These problems, in his opinion, were having some effect on his office's ability to investigate and otherwise deal with Workers' Compensation Board complaints. The Committee has decided not to deal with these three "problems" in any substantive way in this Report. This is particularly so since the Ombudsman and the representatives of the Workers' Compensation Board intend to engage in discussions towards arriving at an appropriate resolution of the "problems".

The Committee favours the approach taken by Dr. Hill in commenting upon "systemic problems" which he believes are causing or contributing to matters of maladministration within the public service or are otherwise "adversely affecting" his ability to perform his functions under The Ombudsman Act. While the Committee encourages Dr. Hill to make every possible effort to remedy the problems by discussions with representatives of the governmental organization affected, it nevertheless expects that, should those efforts be unsuccessful, he will then report his concerns to this Committee.

Dr. Hill has stated that one of his priorities is to "foster a climate of mediation and conciliation with the Ministries". The Committee understands that he intends to implement an approach that he used when he was Chairman of the Human Rights Commission. However, the Committee would be concerned if Dr. Hill applies

the styles of mediation and conciliation to every aspect of his functions. The roles of Chairman of the Human Rights Commission and Ombudsman of the Province of Ontario are not truly analogous.

As Ombudsman, once his investigation has been completed and he formulates a conclusion and recommendation which support the complainant, he becomes the representative of that complainant in his dealings with the governmental organization, the Office of the Premier, and lastly this Committee. In the Committee's opinion he cannot be true to the roles of mediator/conciliator and the role of the complainants "representative". The Committee of course acknowledges that there are many occasions within the Ombudsman's process where the role of mediator and conciliator can and should be adopted more frequently. Certainly any approach which relieves atmospheres of confrontation and tension is a welcome addition.

In his Eleventh Report Dr. Hill postulated his Bill of Administrative Rights. These are a series of guidelines or "yardsticks" to give the public and the public service an idea of the rights that define the relationship between them in administrative matters. These administrative rights are founded substantially in the United Nations Universal Declaration of Human Rights, something which has been very close and important to Dr. Hill. The Committee is comforted by Dr. Hill's assurance that it will not be used in any way as a substitute for his obligations under Sections 21 and 22 of The Ombudsman Act. Rather they will in many cases serve to clarify or explain the reasons for the exercise of his discretion under those sections.

The Committee met for three weeks in September, 1984. This was the first opportunity for Dr. Hill to participate in the Committee's hearings. It also was the first time that the Ombudsman remained in attendance for most of the Committee's hearings. The Committee commends Dr. Hill for accepting the Committee's suggestion of continuous attendance. The insights gained will undoubtedly assist the Ombudsman and Committee in the future.

PART II **Eleventh Report of the Select Committee**

(a) Comments and Response of the Ombudsman

Although Dr. Hill has held office only since March, 1984, the Committee was pleased with the seriousness with which he has addressed the matters raised by the Committee in its Eleventh Report.

For some years, the Committee has been concerned over the length of time taken to process a complaint from beginning to end. There has been some improvement in this area - for example, this year 629 cases took more than a year to process, as compared with 921 in the previous year. Dr. Hill, with the assistance of his Executive Director, has implemented a number of measures which may further reduce the time taken to close a file. For example, a manager of administration has been hired to study the ways in which the work of the support staff may be streamlined, an attempt is being made to standardize investigative procedures, and conciliation committees have been instituted. It is hoped that these measures will make the Ombudsman process more productive and effective. The Committee will be reviewing the results of these measures with Dr. Hill at a later time.

The Committee has encouraged the Ombudsman to give consideration to the wider dissemination of staff throughout Ontario, particularly in the north of the province. The Ombudsman is currently addressing this through a study of the methods by which other governmental departments and private organizations have extended their regional services. From the information gathered from this study and from its two new district offices at Kenora and Timmins, the Office will develop its own regional plan, which will reflect the Ombudsman's interest in making itself known to all Ontarians. The Committee will review the plan with the Ombudsman.

Northern Ontario will continue to be a priority in this context for both the Ombudsman and the Committee. The Members returned from the visit to the north of the province with the strong conviction that a more permanent presence was required for the Ombudsman in these remote areas, and most particularly among our native people.

The establishment of offices in Kenora and Timmins may assist people who feel alienated from the office of the Ombudsman. Currently under study, an in-and-out WATTS telephone system covering northeastern and northwestern parts of Ontario may prove to bring the office closer to the people. The emphasis on reaching communities and communicating well with them is evinced by the plan to hire staff who are fluent in both French and English for the northeastern part of the province. Similarly, the hiring of two native summer students and the plan to employ native people on a part-time basis while they continue to live in their communities also reflect this emphasis. In addition, the Ombudsman will be taking out advertising in native people's newspapers. Perhaps most importantly, he will be meeting with people where, in Dr. Hill's own words, "they are comfortable". In the case of native people, these meetings will take place in their communities.

(b) Responses from Governmental Organizations to
Recommendations contained in the Report.

(1) Ministry of the Attorney-General

Recommendation No. 4 of the Report states that:

"The amendment to the Ombudsman Act set out in Schedule 1 to this Report be included in the Bill which the Attorney-General will table in the legislature amending the Ombudsman Act".

The amendment in question is intended to give the Ombudsman and the head of the governmental organization concerned the power to implement an Ombudsman Recommendation that monies be paid to the complainant. It has been acknowledged by all concerned that the amendment in question is best included in the Ombudsman Act rather than the Financial Administration Act.

The Attorney-General has advised the Committee that he is prepared to bring forward a Bill to amend the Ombudsman Act at an early opportunity. His Ministry is currently in the process of preparing a submission for consideration by Cabinet relating to a number of amendments including this one.

At the Attorney-General's suggestion the Committee has agreed to defer any further discussion of this matter until it has been dealt with by Cabinet. The Committee will continue to consult with the Attorney-General on the progress of the amendments.

(2) Ministry of Consumer and Commercial Relations

Recommendation No. 5 of the Report recommended that:

"the Ministry of Consumer and Commercial Relations (Ministry) reconsider the law in which the complainant's decision was based and, with HUDAC, take all appropriate steps to amend the regulations to comply with the Ontario New Home Warranties Plan Act".

Recommendation No. 6 of the Report further recommended that:

"the Ministry and HUDAC take appropriate steps to provide for payment to the complainant of his statutory entitlement compensation under the Ontario New Home Warranties Plan Act. In the circumstances of this case the Committee considers that the sum of \$20,000.00 is an appropriate payment".

These Recommendations were pursuant to the Committee's decision to support Recommendations of the Ombudsman in a matter involving a complainant's attempt to obtain payment from the Ontario New Home Warranties Plan for a portion of monies lost in the purchase and completion of a new home. During the course of his investigation the Ombudsman concluded that Section 6 of the Regulations under the Ontario New Home Warranties Plan Act was invalid as it purported to contradict certain sections of the Act.

The Ministry, subsequent to the Committee's Recommendation, conferred with representatives of the Warranties Program and formulated an amendment to Section 6 of the Regulation as follows:

"A purchaser who has a claim under Clause 14(1)(a) of the Act in respect of a purchase agreement is entitled to be paid out of the Guarantee Fund the amount of all deposits owing by the vendor to the purchaser under an agreement of Purchase and Sale to a maximum of \$20,000.00."

The Committee was advised that this amendment will serve to eliminate the grounds upon which this complainant was refused payment from the Plan. The Committee therefore accepts the Ministry's response to its Recommendation as full compliance.

HUDAC, on the other hand, up to the time of its attendance before the Committee in September, refused to implement the Recommendation directed to it on the grounds that the Committee lacked jurisdiction to enforce such a Recommendation, and in any event, it had been denied some due process of law by the complainant's decision not to appeal the decision of CRAT to the Supreme Court of Ontario. HUDAC however, had paid the Complainant \$5,000.00 of the \$20,000.00 in issue.

That notwithstanding, when the representative of HUDAC and its legal counsel appeared before the Committee they announced that HUDAC had reconsidered its position and agreed to pay the complainant the additional \$15,000.00, thus complying with the Committee's Recommendation. The payment of the additional \$15,000.00 was rationalized by HUDAC on the basis that it was consistent with a finding of the Commercial Registration Appeal Tribunal that the monies constituted a deposit. The Committee does not intend to enter into a debate as to whether or not HUDAC's actions are a direct response to its Recommendation or consistent with a finding of the Commercial Registration Appeal Tribunal. What is important of course is that the substance of the Committee's Recommendation has been satisfied. The representatives of HUDAC are to be commended for their reconsideration of their position regardless of grounds or motives.

(3) Ministry of Education

The Third Report of the Committee recommended that:

"Recommendation No. 23 of its Third Report be implemented by the Ministry of Education by means of a policy of insurance on a Province wide basis before the end of 1984."

Recommendation No. 23 of the Committee's Third Report provided that:

"the Ministry forthwith pursuant to discussions with the insurance industry and other interested parties for the

purposes of developing an appropriate contract of insurance in the indemnity type at a realistic premium which will adequately compensate the pupil for injuries sustained in the case of a pure accident as a result of participation in shop classes and in organized athletic activities."

The Ministry reports that some progress is taking place regarding the provision of insurance of the type referenced in the Committee's Report. Regrettably, there is still apparently some need for further discussions between the Ministry and representatives of the insurance industry. The Committee understands further that no decision has been yet taken as to who will bear the cost of the premium, estimated at approximately four million dollars.

Some members of the Committee have expressed a need to expand the scope of coverage to include any school activities wherein injuries may occur. The Committee sees some merit in this suggestion. The Committee once again urges the Ministry to move as quickly as possible on this issue. The Committee expects that the Recommendation will be implemented before its next hearings commence.

(4) Ministry of Labour - Worker's Compensation Board

(i) Complaint No. 21, Tenth Report of the Ombudsman

Recommendation No. 1 of the Report stated that:

"the Worker's Compensation Board pay the complainant the increased pension amount from the date he left Canada until such time as it decides entitlement is no longer appropriate, based upon a personal assessment of the complainant either in Canada or in the country where he personally resides."

This Recommendation was necessary because in implementing Recommendations No. 12 and No. 13 of the Committee's Tenth Report, the Worker's Compensation Board misinterpreted the intent of Recommendation No. 13 and rescinded the increased pension amount paid to the complainant as of the date that he permanently left Canada. This step was taken by the Board without a personal assessment of the complainant.

The Committee was advised by representatives of the Board that this Recommendation has been implemented. The complainant has been assessed

personally and will continue to receive from the date of the assessment an award of thirty-five percent. The Committee has accepted the Board's response as full compliance with this recommendation.

(ii) Complaint No. 22

In its Eleventh Report the Committee stated as follows:

"In its Tenth Report the Committee recommended that:

'The Worker's Compensation Board reconsider its decision of July 24, 1980 and its decision of November 9th, 1981 with a view to granting the complainant a temporary supplement to his permanent partial disability award on the basis of a full consideration of all relevant evidence and factors'.
(Recommendation 14)

This Recommendation, was framed in identical language to the Recommendation of the Ombudsman. The Committee concluded that in assessing entitlement to benefits under Section 43(5) of the Worker's Compensation Act, the Board was required to determine the threshold question of whether "the impairment of earning capacity of the employee is significantly greater than is usual for the nature and degree of his injury". That question can only be determined after a consideration of all relevant evidence and factors and not solely on the basis of a comparison of current earnings to 75% of pre-accident earnings.

The Board advised the Committee that it had accepted its Recommendation. It subsequently issued a decision in September 20th, 1983 wherein it purported to have reconsidered all of the relevant evidence and factors but denied the complainant any entitlement to a supplementary award under Section 43(5) of the Act.

The Ombudsman has taken the position that the Board has not complied with the Committee's Recommendation since it has failed to award the complainant a temporary supplement. The Ombudsman asserts that the phrase in his Recommendation as adopted by the Committee "with a view to granting the complainant a temporary supplement to his permanent partial disability award" places an obligation on the Board to award such a supplement after its reconsideration of its two previous decisions.

The Board on the other hand, states that it has complied with the 'letter' of the Recommendation. It believes that its only obligation was to reconsider the

decisions in question leaving the Appeal Board Panel the full discretion to decide the question of entitlement.

The Ombudsman asserts that even though the language of his recommendation is lacking in precision as to the desired result, it was nevertheless made abundantly clear to the Board both during the investigative process and during the hearings before the Select Committee that the Recommendation required the award of some temporary supplement. In the Ombudsman's opinion, the only discretion that was left to the Board was the determination of the quantum of the supplement, not whether one should be paid.

The Committee is thus placed in a position of deciding whether all of the circumstances warrant a restatement of its recommendation so as to best serve the intention of the Ombudsman and of the Committee members who decided to support the Ombudsman in this case. A review of all of the relevant documentation and transcripts of the proceedings has not revealed any lack of understanding and appreciation by the representatives of the Board of the real intention of the Ombudsman's Recommendation. The Board appears to have adopted a technical interpretation of the Recommendation and relies upon actions based upon that technical interpretation as constituting total compliance.

The Committee has decided that it should in these circumstances clarify its Recommendation. This decision does not prejudice the Board in any way since at all material times it was aware of the desired result. If the Committee accepted the Board's actions as full compliance with the Recommendation, it would seriously diminish the effectiveness of the Ombudsman and might well be a party to injustice to the complainant whose claim for a temporary supplement had in substance been supported by both it and the Ombudsman.

ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE WORKER'S COMPENSATION BOARD REVERSE ITS DECISION OF SEPTEMBER 20TH, 1983 AND GRANT THE COMPLAINANT A TEMPORARY SUPPLEMENT TO HIS PERMANENT PARTIAL DISABILITY AWARD. IT IS UNDERSTOOD THAT THE BOARD RETAINS FULL DISCRETION IN ASSESSING AND QUANTIFYING THE AMOUNT OF SUCH SUPPLEMENT.¹

The Vice-Chairman, Appeals, of the Worker's Compensation Board advised the Committee in September that the Board regrets that it cannot comply with the Committee's Recommendation. This statement was made before the

legislature had debated the Committee's Eleventh Report for adoption. Subsequently the legislature did debate the Committee's Report and by motion adopted it, including Recommendation No. 2. The Committee has been subsequently advised that the Board still does not intend to implement the Recommendation.

The Committee is most disturbed over these developments. The Board's position runs contrary to commitments given to it and the legislature by the former Chairman of the Board that the Board would implement without question any Recommendation of the Committee it made regardless of whether it was adopted by the legislature.

The Board's position further appears to be contrary to a procedure formulated by the Honourable Dr. Robert Elgie Q.C. M.P.P., former Minister of Labour, that before the Worker's Compensation Board responds to this Committee that it does not intend to implement one of its Recommendations, the Board must first confer with the Minister so that the issues can be thoroughly canvassed. It does not appear that the Board ever did confer with the Minister although the Board indicated that it believed that he concurs with the Board's decision.

It also runs contrary to the position of Mr. Warrington given to the Committee that if the legislature adopts the Recommendation, which it has, he would recommend to the Corporate Board that it be implemented.

It is premature for the Committee to formulate any final position or make any final Recommendations in this matter. Before doing so it intends to meet with the appropriate representatives of the Worker's Compensation Board, the Minister of Labour and the Ombudsman so that the respective positions can be fully set forth. When that has occurred the Committee will then report to the House with Recommendations on what courses of action are appropriate.

PART III Eleventh Report of the Ombudsman, April 1, 1983 to March 31, 1984

(a) Statistical Analysis

A recurrent concern of the committee has been the reduction of time required to handle cases; this concern remains. With a number of specific changes in mind (e.g. the establishment of a deadline system for drafting, typing, revising and approving of draft reports), the Ombudsman hopes to have a new system in place shortly, whereby this time period will, in the words of Volume I of his 1983-84 Annual Report, be "significantly improved". He has also assured the Committee "That the trend towards greater efficiency be continued by this Office will be a priority while I am Ombudsman." The Committee therefore deferred substantial consideration of these statistics until Dr. Hill has had an opportunity to implement his ideas in this area.

(b) Recommendations in previous Ombudsman Reports and/or Select Committee Reports in respect of which it is expected that some further action will be taken by the Governmental Organization affected.

(i) Ministry of Government Services

In its Third Report (Recommendation No. 24), the Committee provided that the Ministry should table appropriate legislation removing the present restriction on total current earnings of a provincial superannuant. In its Eleventh Report it urged the Ministry and government to table an amendment to s. 16 of the Public Service Superannuation Act so as to deal with this issue as quickly as possible.

During its most recent deliberations, however, the Committee was informed that the government has decided to postpone any decision regarding this amendment on the grounds that the issue is part of the larger one of mandatory retirement under the new Charter of Rights and Freedoms. On May 25, 1984, in the Legislature the Hon. George Ashe stated that "To look at section 16 of this act in isolation would not be looking at the total issue of mandatory retirement. It has been put aside until that occurs."

It is not clear why a projected analysis of mandatory retirement should halt progress on the Committee's recommendation; the Committee therefore reiterates that it will continue to pursue this matter with the Ministry until the amendment is passed.

(ii) Ministry of Health

Recommendation No. 7, Committee's Tenth Report

(Insured Benefits)

In a letter dated June 19, 1984 from the Assistant Deputy Minister to Committee counsel, the Committee was informed that the General Manager of OHIP has fulfilled his undertaking to reimburse the two claimants in this matter, thereby satisfying that part of the Committee recommendation. As regards the rest of the recommendation, in its Eleventh Report the Committee accepted a suggestion from the Ministry that annual meetings be held between the Ministry and the Ontario Dental Association to ensure that the relevant OHIP fee schedule is updated so as to cover all procedures performed by dental surgeons in hospitals. In accepting this suggestion as compliance with its recommendation, the Committee relied upon the assurances of the Assistant Deputy Minister of Health that this process would accomplish what was intended with the recommendation.

During its deliberations this fall, the Committee relied upon the Assistant Deputy Minister's letter of June 19, 1984, in which it is stated that negotiations between the Ministry and the Ontario Dental Association have been completed and a new OHIP Dental Schedule of Benefits will be issued retroactive to April 1, 1984. The Independent Consideration code included in the Schedule will allow OHIP to pay for recognized hospital/dental procedures that are not yet listed in the fee schedule. The Committee concludes that its recommendations have been implemented.

Recommendation No. 27, Committee's Third Report;
Recommendation No. 1, Committee's Sixth Report
(Public Hospitals Act criteria applicable to
applications for appointment to a hospital medical staff)

In its Eighth Report the Committee reminded the Minister of Health "that to the extent that the Council of Health identifies appropriate legislative change and so recommends to the Minister, the Committee will view these legislative changes as necessary to fully comply with the recommendations in its Sixth Report."

As of its Eleventh Report, the Committee was still awaiting the enactment of regulations provided to it in November, 1982. As of this report, an amendment to Regulation 865 under the Public Hospitals Act, requiring hospitals to establish criteria for appointments, has not yet been passed. The head of the legal branch of the Ministry has assured the Committee that the delay has resulted from the need to revise the entire regulation and that the amendment will be passed shortly.

As far as the Ministry's failure to receive submissions from the public regarding amendments to the Act and the regulations is concerned, the Committee, without preferring the position of the Ministry or the Ombudsman, has decided not to actively pursue the matter further.

Detailed Summary No. 40, Ombudsman's Third Report
(Nursing Homes Act)

The interim arrangement accepted by the Committee on the understanding that the Nursing Homes Act would be amended in the future seems to be working, despite problems that arose in connection with two calls for proposals. The Ministry has assured the Committee that the situation has been remedied.

The Committee notes, however, that it is still awaiting amendments to the legislation and will continue to monitor the Ministry's response to its recommendation.

(iii) Ministry of Municipal Affairs and Housing
Ministry of Housing (Recommendation 3) Eighth Report of the
Select Committee (Ontario Housing Corporation Field Manual)

The Committee has decided to assume that amendments currently being made to the OHC Field Manual will conform with recommendations made in its earlier reports. It feels that it is reasonable to do so for two reasons. In the first place, during the deliberations for its Eleventh Report, the General Manager of the Corporation gave assurances that it would be taking the Committee's concerns into account and, in particular, would monitor any problems with the new internal review procedure instituted in local housing authorities. In the second place, any problems with OHC policy and with the implementation of this policy by individual housing authorities will be brought to the Committee's attention through the Ombudsman. The Committee is thus of the opinion that the matter has been concluded.

(iv) Ministry of Treasury and Economics

In Recommendation 34 of its Third Report, the Committee recommended (at that time, to the Ministry of Government Services) that the Audit Act and the Financial Administration Act be amended to provide that, if the Ombudsman makes a recommendation for a money payment and that recommendation is accepted by the governmental organization, a lawful authority is created for such money to be paid out of the Consolidated Revenue Fund.

In its Eleventh Report the Committee reported that a proposed amendment to the Ombudsman Act has been agreed upon as a practical solution to the matter. The recommendation was made that it be included in the bill on which the Ministry of the Attorney General is currently working.

The Attorney General has stated that recommendations for these amendments to the Act would shortly be placed before Cabinet. The Committee therefore expects to be dealing with them in the very near future.

(v) Ministry of Labour - Workers' Compensation Board
Committee's Third Report, Recommendation No. 31

In its Third Report the Committee recommended that the Worker's Compensation Act be amended to provide for statutory authority to recover or write off overpayments made to claimants.

There are currently before the Legislature amendments to the Act, and one of these addresses the Committee's concerns. When in force, section 55(2) will provide that:

The Corporations Act does not apply to the corporation and, subject to the provisions of this Act, the corporation shall have the capacity and powers of a natural person.

With this section the Board is given the power to use all the legal means available to a natural person to recover or write off overpayments. When the legislation is in place, the Committee's recommendation will have been fully satisfied.

Committee's Tenth Report, Recommendation 9;
Committee's Tenth Report, Recommendation 10
(Attendance Allowances)

In its Eleventh Report the Committee reminded the Board that to resolve this issue the Committee had accepted three suggestions made by representatives of the Board. First, if the complainant's wife confirms that she intends to obtain full-time employment, the Board would pay the cost of a person or persons to attend the complainant in her absence. Secondly, and in any event, the Board would immediately assemble a treatment team from their Head Injury and Neurology Clinic to meet with the complainant's family physician so as to establish the actual attendance needs of the complainant. Thirdly, the Board would, at its expense, take all necessary steps to provide an individual to attend the complainant and to render the necessary attendance allowance.

In September of this year the Board reported to the Committee that a rehabilitation counsellor was assisting the complainant's wife to re-enter the workforce. When her re-entry has been effected, the Board will provide a person to look after the complainant on a full-time basis. Both the Committee and the Ombudsman were in agreement that the Board had implemented the matters that the Committee had addressed.

Committee Report 7; Committee Report 10
(Policy of Benefit of Doubt)

In its Tenth Report the Committee recommended that:

The Worker's Compensation Board reconvene a hearing on this matter and consider the evidence of the complainant's family physician and the psychiatrist retained by the Ombudsman first hand and thereafter decide whether the policy of benefits should be applied.

The Board reported that it had held such a hearing and that the evidence of the complainant's physician and of the psychiatrist retained by the Ombudsman had been heard. The decision went, once again, against the complainant. The Board did not hear first-hand evidence from the medical referee.

By not having the medical referee appear before it, the Board has relied on technical compliance with the Committee's recommendation. Although recognizing that the compliance is merely technical, the Committee has decided not to pursue the matter any further.

**PART IV Recommendations denied by Governmental Organizations as
Reported in the Eleventh Report of the Ombudsman**

The Ombudsman's Eleventh Report listed nineteen recommendation denied cases outstanding as of the date of its release. Subsequently in September, 1984, the Ombudsman tabled a special report of an additional recommendation denied case involving the Workers' Compensation Board. These twenty cases represent more than double the recommendation denied cases ever reported by the Office of the Ombudsman in any given year.

To the credit of the Ombudsman and the various governmental organizations concerned, by the time the Committee commenced its hearings in September, eight of those cases had been resolved whereby the governmental organizations affected accepted the recommendations of the Ombudsman. For the remaining unresolved cases, the Committee continued its procedure of deliberating upon each immediately after it has considered relevant matters with the Ombudsman and the governmental organization representatives concerned. Where the Committee, as a result of its deliberation, decided to support the recommendation of the Ombudsman, it announced its decision. The Committee is pleased to report that with all but one of the recommendation denied cases that it supported involving the Workers' Compensation Board, the Board has already accepted the Committee's decision and taken steps to implement the recommendations.

To fulfill its mandate, the Committee will in this Report set forth the precise recommendations which it formulated during its deliberations.

(i) Ministry of Correctional Services

Detailed Summaries No. 1 and 2

The recommendations contained in these two cases were accepted by the Ministry between the time the Ombudsman tabled his report in the Legislature and the commencement of the Committee's hearings.

(ii) Ministry of Government Services
Public Service Superannuation Board

Detailed Summary No. 3

This complaint arose from advice given to the complainant in 1966 by the Director of the Pension Funds Branch (now Employee Benefits Branch, Ministry of Government Services), in respect of consequences which would flow from a transfer of his pension credits with the Public Service Superannuation Fund (PSSF) to the Ontario Municipal Employees Retirement System (OMERS), upon the acceptance by the complainant of a promotion within the Public Service.

From 1958 to 1966 the complainant was employed in a position making pension contributions to PSSF. In 1966 he was offered a promotion to a new position, wherein he would be required to contribute to OMERS and transfer his pension credits accordingly.

The Ombudsman, as a result of his investigation, concluded that the Director of the Pension Funds Branch failed to supply complete information to the complainant, through his employer, with respect to the consequences of the complainant transferring his pension credits; that the communications passing between the Director and the complainant's employer clearly included the assumption by the Director of some responsibility to advise the complainant on the merits of transferring his pension from PSSF to OMERS; and that the advice given was incomplete as it failed to alert the complainant that, upon transfer of pension benefits, he would lose the employer's contributions made to PSSF and that he would lose the entitlement to a pension calculated on his average highest three years of earnings. (The OMERS pension was then based on career average earnings.)

The Ombudsman accordingly recommended that the complainant be paid reasonable compensation for his loss by either the Ministry of Government Services or the Public Service Superannuation Board.

The Committee agrees with the conclusions of the Ombudsman, that the Director, having assumed the responsibility for advising the complainant on the

transfer of his pension credits, failed to inform him of all of the adverse consequences. However, on the facts disclosed by the Ombudsman's investigation and during the Committee hearings, there does not appear to be any evidence that the consequences if disclosed by the Director, would have affected the complainant's decision to accept the position of promotion.

More importantly, no one from the Office of the Ombudsman or remarkably from the Public Service Superannuation Board was able to advise the Committee what the comparative pension benefits would be today, under both pension plans, based on relevant salaries of his "old" and "new" position. In other words, the Ombudsman was unable to determine that the complainant had in fact suffered any loss as a result of the Director's omission. Granted, the Ombudsman attempted to quantify his recommendation by the amount of the employer's contribution which had accumulated from 1958 to 1966 and applying some appropriate interest rate to date. That however begs the question that the pension benefits available today to the complainant are less than what he would now be entitled to under his former pension plan, even allowing for the loss of employer's contributions. That was not established.

Accordingly, the Committee is unable to support the recommendation of the Ombudsman. To do so would be to support the payment of monies to compensate for a loss which had not been established.

(iii) Ontario Northland Transportation Commission

Detailed Summary No. 4

This matter involved a complaint by a former employee of the Ontario Northland Transportation Commission, that the Commission failed to provide adequate pension benefits to him upon his retirement.

The Ombudsman's investigation disclosed that the complainant had been working for a company for 32 years when in 1973 it was acquired by the Commission. Shortly thereafter, the complainant, along with other management staff members were permitted to make contributions to the Ontario Northland

Pension Plan. The Commission at the same time gave a commitment to the complainant, among others, that he would not receive less under the Ontario Northland Plan than he would under his former employer's retirement policy. Less than five years after he began making contributions to the Northland Plan, the complainant retired due to ill health. On retirement he was paid an amount equal to the former employer's retirement policy and a refund of contributions he had made to the Northland Plan with interest. He was not entitled to a full vesting of the Northland Pension Benefits because he had not served five years with the Commission as the Plan required.

As a result of his investigation, the Ombudsman concluded that the Commission had failed to provide reasonable pension benefits to the complainant, a long standing employee of the company acquired by the Commission. The Ombudsman reasoned that it was inequitable not to apply the spirit of Section 29 of the Pension Benefits Act to the complainant's situation just because the former employer did not provide a benefit which could be defined as a pension.

The Ombudsman accordingly recommended that the complainant be paid a lump sum representing the pension benefits he would have received from the date of his retirement to the present time as set-off against the sum, plus interest, that he already received upon his retirement in 1979. The Ombudsman further recommended that the complainant should continue to receive his monthly pension benefits until death. Regrettably, before the Committee considered this matter, the complainant died. The only issue therefore remaining for the Committee to consider was entitlement to the lump sum in question, which the Committee understands the Ombudsman has quantified at approximately \$12,000.00.

The Commission declined to implement the Ombudsman's recommendation on the grounds that it lacked the legal authority to do so; that it had in fact provided allowances to the complainant on and before his retirement which were reasonable in the circumstances. In fact, the Committee was informed by the Commission that before his retirement the Commission "gifted" the complainant four months sick leave credits. Further it offered him a less responsible position in order that he might continue his employment at least until his

pension vested and upon his death, his widow became entitled to the proceeds of a life insurance benefit of approximately \$48,000.00. The Committee notes that under his former employment, the complainant would not have received the sick leave credits as noted or any life insurance benefit. In summary, the Committee understands that the complainant and his estate received benefits more than double those that he would have received under his former employer.

In the circumstances, the Committee is unable to support the recommendation of the Ombudsman, that the complainant, (now his estate), is entitled to any further payments. The actions of the Commission in dealing with this complainant were reasonable in the circumstances.

(iv) Ministry of Colleges and Universities

Detailed Summaries No. 5 and 6

The Ministry accepted the recommendations of the Ombudsman in these cases before the Committee commenced its hearings in September.

(v) Ministry of Municipal Affairs and Housing

Detailed Summary No. 7

The Ministry accepted the Ombudsman's recommendation in this case before the Committee commenced its hearings on the matter in September.

Detailed Summary No. 8

Remarkably this involves the North Pickering matter. The Committee boldly asserted in its last Report that North Pickering was finally at an end. The creative talents of the Office of the Ombudsman have proved the Committee to be wrong.

The Ombudsman asserts that the complainant in this case, a former land owner who sold his property to the expropriating authority prior to expropriation, is entitled to be compensated on the same basis as the 95 former land owners that were included in the "settlement" reached between the Minister of Housing and the

Ombudsman and reported on by the Committee in its last Report. (See Report #11, Pages 29 to 32). Although the Ombudsman has not conducted a specific investigation into this matter, he has nevertheless concluded that the substance of this complaint is "typical of the majority of North Pickering complaints". Accordingly he recommended that the complainant be included in the revised settlement proposal for North Pickering concluded by the Ministry and the Ombudsman, and that the complainant be paid additional money for his land in accordance with its terms. The Committee understands that the recommendation contemplates a payment of approximately \$236,000.00.

The Ministry has declined to implement the Ombudsman's recommendation. It asserts that the complaint is not typical of the North Pickering complaints; that the complainant is recognized as an expert in the field of expropriation and land compensation law, having written and co-authored certain texts and manuals in that field; and that the complainant is analogous to the 13 complainants who were excluded from the Ministry settlement proposal and whom this Committee decided should not receive any further compensation.

The Committee does not support the recommendation of the Ombudsman in this matter. The Committee does not believe that this complainant is entitled to further compensation.

(vi) Ministry of the Solicitor General

Complaint Summary No. 9

The Ministry accepted the Ombudsman's recommendation in this case before the Committee's hearings began in September.

(vii) Ministry of the Environment

Detailed Summary No. 10

This matter concerns the issue whether the complainant is entitled to claim and in the appropriate circumstances be awarded, interest on monies found due and paid to him pursuant to the Public Works Creditors Payment Act.

The facts of this matter are not relevant. The Ombudsman after conducting his investigations concluded that the Minister of the Environment was mistaken in concluding that he does not have the authority to pay interest under the Public Works Creditors Payment Act and further that the Minister unreasonably exercised his discretion in rejecting the complainant's claim for interest in this matter.

The Ombudsman accordingly, recommended that the decision of the Minister to accept the recommendation of the adjudicator not to pay the claim for interest made by the complainant be cancelled and that the Minister accept and consider the claim for interest as one properly made under the provisions of the Public Works Creditors Payment Act. The Committee understands the Ombudsman intends by this recommendation that the Minister accept the claim for interest as one properly made pursuant to the Public Works Creditors Payment Act and consider the claim on its merits. The Ombudsman does not intend by these recommendations that the Minister pay the complainant interest without first considering the merits of the claim. The Committee further understands that the question of the merits includes a consideration of whether the original contract between the parties stipulated a claim for interest, whether the complainant's charge of interest is unilateral and whether he at any time waived or released the Ministry from any such claim for interest.

The Ministry has declined to accept the Ombudsman's recommendations for reasons which the Committee understands to be based on the merits of the claim, rather than on the legal issue of whether interest is payable by the Minister under the Act.

The Committee accepts the recommendations of the Ombudsman in this case. Not only does the Committee agree that the Minister has the discretion to award a payment of interest under the act, but Ministry representative appearing before the Committee confirmed that authority as well. The Committee is mindful that the Ombudsman's recommendations do not include an automatic payment of interest. The significant issue of the recommendation is that such a claim be considered on the merits.

ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT:

- (A) THE MINISTER OF THE ENVIRONMENT ACCEPT IN PRINCIPLE THAT THE CROWN MAY, IN THE APPROPRIATE CIRCUMSTANCES, PAY A CLAIMANT INTEREST DUE PURSUANT TO A TERM OF A CONTRACT WITH A CONTRACTOR; AND
- (B) THE MINISTER OF THE ENVIRONMENT CONSIDER THE MERITS OF THE COMPLAINANTS CLAIM FOR INTEREST OWING ON THE PRINCIPAL AMOUNT IN QUESTION AND FORMULATE A DECISION WHETHER OR NOT TO PAY SUCH CLAIM.₂

The Committee intends that this latter recommendation requires that the recommendation of the adjudicature in this matter be cancelled.

(viii) Ministry of Labour - Workers' Compensation Board

(a) Detailed Summary No. 11

In this matter after conducting his investigation, the Ombudsman recommended that the Workers' Compensation Board revoke its previous relevant decision and grant the complainant entitlement to benefits for a disablement arising out of and in the course of her employment. The Committee after considering this matter with the Ombudsman and representatives of the Board, deliberated in camera and decided to support the recommendation of the Ombudsman.

The Workers' Compensation Board has already informed the Committee and the Ombudsman that it has accepted the Committee's decision and will implement the recommendation accordingly. THEREFORE, FOR THE PURPOSE OF FULFILLING ITS MANDATE, THE COMMITTEE RECOMMENDS THAT THE WORKERS' COMPENSATION BOARD REVOKE ITS PREVIOUS DECISION AND GRANT THE COMPLAINANT ENTITLEMENT TO BENEFITS FOR DISABLEMENT ARISING OUT OF AND IN THE COURSE OF HER EMPLOYMENT.₃

(b) Detailed Summary No. 12

In this case, after conducting his investigation, the Ombudsman recommended that the Appeal Board Panel of the Workers' Compensation Board revoke its decision of January 16, 1981 and grant the complainant entitlement to compensation benefits for his disability which led to the amputation of his leg. The Committee, after considering this matter with the Ombudsman and representatives of the Workers' Compensation Board deliberated in camera and decided to support the recommendation of the Ombudsman. The Workers' Compensation Board has already informed the Committee and the Ombudsman that it accepts the Committee's decision and will implement the recommendation.

ACCORDINGLY, TO FULFILL ITS TERMS OF REFERENCE THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION OF JANUARY 16, 1981 AND GRANT THE COMPLAINANT ENTITLEMENT TO COMPENSATION BENEFITS, BOTH TEMPORARY AND PERMANENT, FOR THE DISABILITY RESULTING FROM THE LOSS OF HIS LEG.⁴

(c) Detailed Summary No. 13

The recommendation of the Ombudsman in this case was accepted by the Workers' Compensation Board before the Committee's hearings in September began.

(d) Detailed Summary No. 14

After concluding his investigation in this case, the Ombudsman recommended that the Appeal Board Panel of the Workers' Compensation Board revoke its decision of September 15, 1981 and restore to the complainant entitlement to benefits for the broken leg he received on December 21, 1979. The Committee after considering this matter with the Ombudsman and representatives of the Workers' Compensation Board deliberated in camera and decided to support the Ombudsman's recommendation. Subsequently the Workers' Compensation Board advised the Committee and the Ombudsman that it accepted the Committee's decision and would implement the recommendation.

ACCORDINGLY, TO FULFILL THE COMMITTEE'S TERMS OF REFERENCE, IT RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION DATED SEPTEMBER 15, 1981 AND RESTORE TO THE COMPLAINANT ENTITLEMENT TO BENEFITS FOR THE BROKEN LEG HE SUFFERED ON DECEMBER 21, 1979.⁵

(e) Detailed Summary No. 15

This complaint arose out of a decision of an Appeal Board Panel of the Board in October, 1978, disallowing a claim for payment of temporary total compensation benefits for the period in question.

After completing his investigation, the Ombudsman concluded that the Appeal Board Panel in question was unreasonable in deciding that the complainant was not entitled to temporary partial benefits for the period in question. He accordingly recommended that the Board revoke its decision and award the complainant temporary partial benefits for the subject period.

The Board declined to implement the recommendation on the grounds that the issue of temporary partial benefits was not before it when the appeal was heard in October, 1978 and that because the issue was not considered or decided by it then the Ombudsman lacks jurisdiction to formulate any conclusions or make any recommendations on that issue. In other words, the Board takes the position that it is premature for the Ombudsman to investigate the issue of "partial" benefits unless and until the Board deals with that issue on appeal.

The Ombudsman maintains that the Appeal Board Panel had all relevant evidence available to it in October, 1978 and ought to have considered all issues of compensation referable to the complainant. The Ombudsman further maintains that to require the issue of temporary partial benefits to work its way through the Workers' Compensation Board system before he can deal with it, will cause unnecessary delay to the complainant.

The Committee notes, however, that since the creation of the office, the Ombudsman has investigated matters involving entitlement to compensation only

after they had been dealt with by Appeal Board Panels of the Workers' Compensation Board. This recommendation appears to be an attempt to change that longstanding practice. It is an attempt to require Appeal Board Panels to deal with all issues that are or should be raised on appeals (analogous to the legal principle of res judicata) and an attempt by the Ombudsman to acquire jurisdiction to investigate complaints relating to decisions made at levels below the Appeal Board.

The Committee notes that the Workers' Compensation Board had fixed a date for an Appeal Board Hearing of the temporary partial disability issue.

The Committee is unable to support the Ombudsman's recommendation in this case. The Committee has in effect been asked to endorse a change involving investigation of decisions of the Workers' Compensation Board without appropriate prior notice to or discussions between the Ombudsman and representatives of the Board. This attempt to unilaterally change the rules would seem to run counter to Dr. Hill's philosophy of mediation and conciliation. If Dr. Hill believes that there is merit in some change in the practice involving the Board decisions then, in the Committee's opinion the appropriate way of pursuing those changes initially is with Board representatives.

(f) Detailed Summary No. 16

This complaint arose from a decision of an Appeal Board Panel of the Workers' Compensation Board in July, 1977 denying the complainant's claim for compensation for disabilities said to have arisen from an accident at work in August, 1975.

The Ombudsman's investigation consisted mainly of a consideration of various competing medical opinions on whether or not the complainant had suffered a back disability as a result of the 1975 accident. It disclosed that the complainant had a history of back injuries and surgery prior to the August, 1975 accident. Subsequent to the accident he suffered continuing symptoms and underwent back surgery in 1977.

The Ombudsman concluded that the weight of medical evidence available favoured a finding that the accident did cause certain disabilities which appeared in 1976 and which required the 1977 surgery. He further concluded that the Workers' Compensation Board should not have deemed conclusive a report of the medical referee which was obtained subsequent to the Appeal Board decision of July, 1977.

Accordingly, the Ombudsman recommended that the Appeal Board revoke its decision and grant the complainant entitlement to compensation benefits on the basis of all the evidence before it. The Committee understands that the Ombudsman intends by this recommendation that the complainant be entitled to temporary benefits while he recovered from the 1977 surgery plus a permanent disability award assessment.

The Board has declined to implement the Ombudsman's recommendation. It is of the opinion that the evidence for and against the finding of a cause or relationship between the accident at work in 1975 and the occurrence of the symptoms in 1976 is not approximately equal in weight. In other words, the Board does not believe that its policy of benefit of the doubt has application in this case. The Board further is of the opinion that the medical referee's report is conclusive and accordingly binding on the Board.

The Committee has already advised the Workers' Compensation Board that it concurs in the conclusions reached by the Ombudsman that the complainant is entitled to compensation for some of the symptoms he presently displays. However, the Committee does not agree that the complainant should be compensated for all of the symptoms as the Ombudsman's recommendation seems to indicate.

ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS PREVIOUS DECISIONS AND GRANT THE COMPLAINANT ENTITLEMENT TO COMPENSATION FOR SUCH SYMPTOMS AS A FURTHER REVIEW OF ALL MEDICAL EVIDENCE INDICATES IS APPROPRIATE.⁶

By this recommendation the Committee intends that the complainant be compensated by benefits in some amount. However, it is prepared to leave the matter of the assessment of the nature and extent of the disability to the Workers' Compensation Board.

The Committee does however refer the Board to the evidence of a Dr. A relied upon by the Ombudsman in support of his recommendation who in his medical report dated October 18, 1978 stated that:

"There is not doubt that a man with his history of back problems would have difficulty with job duties that require bending, walking and lifting. However, these movements would aggravate both the pre-existing non-compensable conditions as well as the pre-existing compensable conditions equally".

The Workers' Compensation Board has subsequently advised the Committee that it has some difficulty in settling upon the practical application of the Committee's recommendation. It has accordingly requested certain advice and direction of the Committee which has been given. As of the writing of this report, the Committee has not been advised by the Workers' Compensation Board whether and to what extent it intends to implement this recommendation.

The Committee will of course pursue this matter with the Board at the next available opportunity.

(g) Detailed Summary No. 17

After concluding his investigation in this case, the Ombudsman recommended that the Appeal Board Panel of the Workers' Compensation Board revoke its decision of February 9, 1982 and acknowledge entitlement for disabilities he found as a result of his investigation, as being related to the complainant's compensable injury of April 14, 1967. The Committee understands that recommendation would entitle the complainant to temporary benefits for the period relating to certain surgery occurring in 1969 and further for the period of certain alleged acute disability occurring in 1979 and further to a permanent disability assessment.

The Committee, after considering this matter with the Ombudsman and representatives of the Workers' Compensation Board, deliberated in camera and decided to support the conclusion of the Ombudsman that the condition of the complainant, known as Carpal Tunnel Syndrome was related to and caused by the compensable accident in 1967. However, the Committee is unable to support the recommendation of the Ombudsman as worded. The language of the recommendation in the Committee's opinion, might not achieve the desired result of providing compensation for the complainant in accordance with the nature and extent of the disabilities. ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION DATED FEBRUARY 9, 1982, AND AWARD THE COMPLAINANT ENTITLEMENT FOR THE PERIOD OF RECUPERATION FOLLOWING THE SURGERY IN 1969.⁷

THE COMMITTEE FURTHER RECOMMENDS THAT THE WORKERS' COMPENSATION BOARD ASSESS THE COMPLAINANT FOR ANY PERMANENT DISABILITY CAUSED BY THE CARPAL TUNNEL SYNDROME REQUIRING THE SURGERY IN 1969, AND COMPENSATE THE COMPLAINANT FOR ANY DISABILITY SO IDENTIFIED.⁸

The Committee has been advised by the Workers' Compensation Board that it accepts the recommendations and has already taken the steps to implement same.

(h) Detailed Summary No. 18

The recommendation of the Ombudsman in this case was accepted by the Workers' Compensation Board before the Committee's hearings began in September.

(i) Detailed Summary No. 19

This complaint concerns a decision of an Appeal Board panel of the Worker's Compensation Board dated August 4, 1978 denying the complainant entitlement to compensation for a psychological condition said to have existed between September, 1976 and February, 1983 and to have been caused by an industrial accident occurring in July, 1974.

A substantial part of the Ombudsman's investigation was taken with a consideration of various competing medical opinions concerning the issue whether the psychological disability suffered by the complainant related to the accident in question. The Ombudsman ultimately accepted the medical opinions that supported a causal relationship between the psychological disability and the accident at work and accordingly concluded that the Appeal Board by its decision of August 4, 1978 unreasonably denied the complainant an award for psychological disability. He accordingly recommended that the Appeal Board revoke its decision of August 4, 1978 and grant the complainant a provisional disability award for a psychological disability from September 1, 1976, the date upon which certain temporary total disability benefits were terminated, until February 18, 1983, the date of the report of Dr. A, a psychiatrist who found that the complainant was not then suffering any psychological disability. The Committee understands the Ombudsman's recommendation intends a partial award for the period from September 1, 1976 to February 18, 1983.

The Workers' Compensation Board has declined to implement the Ombudsman's recommendation, substantially because, in its opinion, there was no evidence, particularly any medical opinion, that establishes any psychological disability existing during the period covered by the Ombudsman's recommendation. In fact the date of the latest psychiatric report relied upon by the Ombudsman is December, 1975, prior to the date that the Ombudsman believes that the benefits should begin.

The Committee is unable to support the recommendation of the Ombudsman in this case. Upon its review of the relevant evidence in this case it was unable to identify any evidence that established or inferred that a psychological disability did exist between September, 1976 and February, 1983. In fact the only medical evidence that appears to exist during this period is from two psychiatrists who rendered opinions to the Board in 1978 that there was no psychological disability existing which could be related to the accident in question. In the Committee's opinion, to ignore those two opinions given during the critical period, would be to stretch the application of the policy of the benefit of the doubt beyond any appropriate limit.

(j) Special Report of the Ombudsman respecting a complaint of Mr. N. dated August, 1984

After completing his investigation the Ombudsman recommended to the Board that the Appeal Board Panel in question revoke its decisions of September 22, 1981 and December 7, 1981, and grant the complainant entitlement to compensation benefits for his condition diagnosed as left cerebral hemisphere infarction.

The Committee, after considering this matter with the Ombudsman and representatives of the Workers' Compensation Board, deliberated in camera and decided to support the Ombudsman's recommendation. Subsequently, the Workers' Compensation Board advised the Committee and the Ombudsman that it accepted the Committee's decision and would implement the recommendation.

ACCORDINGLY, TO FULFILL THE COMMITTEE'S TERMS OF REFERENCE, IT RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS RELEVANT DECISIONS AND AWARD THE COMPLAINANT ENTITLEMENT TO COMPENSATION BENEFITS, INCLUDING TEMPORARY TOTAL DISABILITY AND PERMANENT DISABILITY, FOR HIS CONDITION DIAGNOSED AS LEFT CEREBRAL HEMISPHERE INFARCTION AND THE CONTINUING SYMPTOMS OCCASIONED THEREBY.⁹

General Comments

Many of the cases involving the Workers' Compensation Board described above involved a consideration by the Ombudsman during his investigation, of a great number of competing medical opinions dealing with the injuries suffered by complainants, and the causal relationships if any, which existed between the injuries suffered and the continuing symptoms. In at least four cases the Ombudsman based his recommendation on an acceptance of the prevailing medical opinions which supported the complainant's position and a rejection of the medical opinions which did not. In many of these cases the supporting medical opinions were given by doctors whom the complainant had seen or been treated by personally, whereas the contrary medical opinions were given by doctors who had been retained by the Workers' Compensation Board. In the latter respect many of those doctors gave their opinions without ever having personally examined or met with the complainant.

These cases are the most difficult the Committee had to deal with. On the one hand, it is urged by the Ombudsman to accept his recommendation (and implicitly the medical opinions he prefers). He reminds the Committee of certain statements it has made that, where his statutory requirements are complied with in a Section 22(3) Report, the Committee will *prima facie* support his recommendation in that Report. On the other hand, it is confronted with the position of the Workers' Compensation Board, who argues that the medical opinions of the doctors it employs or retains should be accepted. The Board reasons that its physicians are most qualified to assess matters of injury and compensation since they have, when compared to doctors in private practice, the more extensive experience.

In some of the cases described above the Committee supported the recommendation of the Ombudsman and thereby accepted the medical opinions upon which he relied. In other cases the Committee supported the position of the Workers' Compensation Board and implicitly the opinions upon which it relied.

The Committee has said previously that when considering whether to support a recommendation of the Ombudsman, it will not sit as a "Court of Appeal". That principle is most difficult to honour when the Committee deals with cases of this nature. It is frankly impossible not to assess the two sets of competing medical opinions and to decide which in its opinion is the more reasonable in the circumstances. If the Committee did not assess the existing medical opinions upon which the Ombudsman and the Board respectively rely, it is unable to ascertain how it could otherwise deal with these cases without becoming a mere "rubber stamp" for the Ombudsman or for the position offered by the Workers' Compensation Board. The Committee intends to continue a dialogue with the Ombudsman and the Workers' Compensation Board on this most difficult problem. In the meantime, until a better solution is identified, if one exists, it will continue to assess the relative merits of the medical opinions relied upon by the Ombudsman and the Board.

PART V **Amendments to the Ombudsman Act and Rules for the Guidance of the Ombudsman in the exercise of his functions under the Ombudsman Act**

Rules for the Guidance of the Ombudsman

It goes without saying that the amendments to the Ombudsman Act that were expected in the spring of 1984 did not appear. Dr. Hill reported on September 6, 1984 that meetings with the Ministry of the Attorney-General continue, that the Ombudsman's recommendations regarding amendments are close to finalization, and that the Ministry has assured him that the bill has a high priority. The Committee wishes to reiterate that it is still ready, as it was at the time of the writing of its Eleventh Report, to receive this bill for necessary and appropriate consideration after it has been tabled.

PART VI Communications received from the Public

The subcommittee dealing with communications from the public (and consisting of one Member from each of the three political parties) has met twice and has dealt with sixteen communications. None of these was determined to fit the Committee's policy regarding what should be brought to the attention of the full committee - namely, that the communication assists the Committee in fulfilling its terms of reference.

On September 25, 1984, the Committee formally adopted a statement setting out its principles and procedures for dealing with communications from the public. This statement is appended to this Report as Schedule 2. The Committee also adopted an abbreviated form of this statement, which will be enclosed with the Committee clerk's letter to the communicant indicating that his or her letter has been received by the Committee.

PART VII Estimates of the Ombudsman for the fiscal year 1985-1986

This occasion represents only the second time that the Select Committee has considered the estimates of the Ombudsman. Because Dr. Hill is new to his position, the Committee engaged in extensive discussions with him regarding the direction in which he wishes to take the Office. Next time, it will take a keen interest in reviewing the implementation of his plans.

In its Eleventh Report, the Committee discussed a recommendation from its Second Report - viz., that the Ombudsman be required to adopt the Ontario Manual of Administration as the manual of its office. It is pleased with Dr. Hill's assurances that the Manual has again been adopted and will be followed this time. It has yet to receive and consider the report of the Provincial Auditor recommended by the Public Accounts Committee in its December, 1983 Report.

The Committee was also pleased with Dr. Hill's emphasis on fiscal responsibility. He reported that overall savings of \$206,000 annually have been effected. At a saving of \$39,000 the so-called "private hearings" have been eliminated, less expensive office space for the Ottawa branch has already been rented, transportation costs will be down, and new offices created will be of the economical "storefront" type. When staff must be replaced, care will also be taken to assess that such a replacement is necessary. One large, upcoming expense may consist of the renting of data processing equipment allowing for storage of data on the Office's own premises. A feasibility study is about to be undertaken regarding the computer and data processing needs of the Office as compared with rising storage costs with the University of Toronto.

The Committee ordered that the Chairman report the estimates of the Office of the Ombudsman for the fiscal year ending March 31, 1985 to the House without amendment.

PART VIII Special Report of the Select Committee Re: Human Rights

In April, 1984 the Committee tabled its Special Report on human rights. This report was prepared by the Committee in response to the resolution of the Legislature dated the 29th day of May, 1980 made by the late Jim Renwick.

The Committee recommended in the report that:

"The Committee shall, when it considers it necessary, consider, review, report and recommend to the Legislature on ways in which the Assembly can act to oppose and condemn acts of political killings, imprisonment, terror and torture and any other acts which may be included in any covenant or document to which Canada is or may become a signatory; and, in particular, the Committee shall have the power to consult with, and if deemed appropriate, establish formal relationships with, and provide actual support to government and non-governmental organizations whose aims and objectives are dedicated to the elimination of the kinds of acts mentioned above.

The Committee shall further have the power to receive, consider and review specific examples of the kinds of actions herein mentioned and, if deemed advisable, to report thereon to the Legislature with any recommendations for actions which the Legislature might take; and pursuant to the above, the Committee shall have the power to sit concurrently with the House at such times as it considers necessary and appropriate."

Regrettably the Legislature has not debated the Report notwithstanding that it has been on the Order Paper for some time. The Committee is of the opinion that its Report should be debated and its recommendation adopted. The Legislature's implementation of this recommendation will serve as a worthy tribute to the memory of Jim Renwick.

PART IX Schedules to Report

- Schedule 1 - Summary of Recommendations
- Schedule 2 - Principles and Procedures for Dealing
with Communications with the Public

SCHEDULE 1

SUMMARY OF RECOMMENDATIONS

1. ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE WORKER'S COMPENSATION BOARD REVERSE ITS DECISION OF SEPTEMBER 20TH, 1983 AND GRANT THE COMPLAINANT A TEMPORARY SUPPLEMENT TO HIS PERMANENT PARTIAL DISABILITY AWARD. IT IS UNDERSTOOD THAT THE BOARD RETAINS FULL DISCRETION IN ASSESSING AND QUANTIFYING THE AMOUNT OF SUCH SUPPLEMENT.₁
(Page 11)
2. ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT:
 - (A) THE MINISTER OF THE ENVIRONMENT ACCEPT IN PRINCIPLE THAT THE CROWN MAY, IN THE APPROPRIATE CIRCUMSTANCES, PAY A CLAIMANT INTEREST DUE PURSUANT TO A TERM OF A CONTRACT WITH A CONTRACTOR; AND
 - (B) THE MINISTER OF THE ENVIRONMENT CONSIDER THE MERITS OF THE COMPLAINANTS CLAIM FOR INTEREST OWING ON THE PRINCIPAL AMOUNT IN QUESTION AND FORMULATE A DECISION WHETHER OR NOT TO PAY SUCH CLAIM.₂ (Page 26)
3. THEREFORE, FOR THE PURPOSE OF FULFILLING ITS MANDATE, THE COMMITTEE RECOMMENDS THAT THE WORKERS' COMPENSATION BOARD REVOKE ITS PREVIOUS DECISION AND GRANT THE COMPLAINANT ENTITLEMENT TO BENEFITS FOR DISABLEMENT ARISING OUT OF AND IN THE COURSE OF HER EMPLOYMENT.₃ (Page 26)

4. ACCORDINGLY, TO FULFILL ITS TERMS OF REFERENCE THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION OF JANUARY 16, 1981 AND GRANT THE COMPLAINANT ENTITLEMENT TO COMPENSATION BENEFITS, BOTH TEMPORARY AND PERMANENT, FOR THE DISABILITY RESULTING FROM THE LOSS OF HIS LEG.⁴ (Page 27)
5. ACCORDINGLY, TO FULFILL THE COMMITTEE'S TERMS OF REFERENCE, IT RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION DATED SEPTEMBER 15, 1981 AND RESTORE TO THE COMPLAINANT ENTITLEMENT TO BENEFITS FOR THE BROKEN LEG HE SUFFERED ON DECEMBER 21, 1979.⁵ (Page 28)
6. ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS PREVIOUS DECISIONS AND GRANT THE COMPLAINANT ENTITLEMENT TO COMPENSATION FOR SUCH SYMPTOMS AS A FURTHER REVIEW OF ALL MEDICAL EVIDENCE INDICATES IS APPROPRIATE.⁶ (Page 30)
7. ACCORDINGLY, THE COMMITTEE RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS DECISION DATED FEBRUARY 9, 1982, AND AWARD THE COMPLAINANT ENTITLEMENT FOR THE PERIOD OF RECUPERATION FOLLOWING THE SURGERY IN 1969.⁷ (Page 32)
8. THE COMMITTEE FURTHER RECOMMENDS THAT THE WORKERS' COMPENSATION BOARD ASSESS THE COMPLAINANT FOR ANY PERMANENT DISABILITY CAUSED BY THE CARPAL TUNNEL SYNDROME REQUIRING THE SURGERY IN 1969, AND COMPENSATE THE COMPLAINANT FOR ANY DISABILITY SO IDENTIFIED.⁸ (Page 32)

9. ACCORDINGLY, TO FULFILL THE COMMITTEE'S TERMS OF REFERENCE, IT RECOMMENDS THAT THE APPEAL BOARD PANEL OF THE WORKERS' COMPENSATION BOARD REVOKE ITS RELEVANT DECISIONS AND AWARD THE COMPLAINANT ENTITLEMENT TO COMPENSATION BENEFITS, INCLUDING TEMPORARY TOTAL DISABILITY AND PERMANENT DISABILITY, FOR HIS CONDITION DIAGNOSED AS LEFT CEREBRAL HEMISPHERE INFARCTION AND THE CONTINUING SYMPTOMS OCCASIONED THEREBY.⁹ (Page 34)

SCHEDULE 2

**PRINCIPLES AND PROCEDURES FOR DEALING WITH
COMMUNICATIONS WITH THE PUBLIC**

Every year, the Select Committee on the Ombudsman receives a number of written and oral submissions from members of the public. Some simply wish to comment on decisions or procedures of the Ombudsman's office, but a good many request action on the Committee's part.

This memorandum sets out the general principles and the specific procedures which the Committee has evolved to deal with such communications.

Communications from the public may disagree with conclusions reached by the Ombudsman (or by the Ombudsman's exercise of his discretion not to investigate a complaint), question the methods or motives of the Ombudsman's staff or allege wrongdoing or dereliction of duty by the Ombudsman's staff. The Committee's practice has been to review all communications with a view to deciding whether to pursue the matter in some detail and/or to invite the communicant to appear before the Committee. In the vast majority of the cases which have come before it, the committee has declined to pursue the matters raised by the communicant, primarily because it does not believe that its function is to "second guess" the Ombudsman or to re-investigate cases in which complainants do not accept the Ombudsman's conclusions.

In a very few instances, however, the Committee has invited members of the public to appear before it or reviewed matters raised by them in some detail.

The following excerpts from the Committee's reports are germane:

In recent months the Committee has received a number of requests from members of the public for permission to appear before it in person. The reasons for the requests have been related to the operation of the Ombudsman's office in a

specific instance or respecting some suggested amendment to The Ombudsman Act.

The Committee has always received written communications from the public. It will continue to receive any written communication from the public that is made on the basis that the Committee will receive it without any restriction as to the Committee's ability to make the communication, if it so decides, part of its public proceedings.

The Committee has decided that it will in appropriate circumstances hear from members of the public in person when, in the Committee's opinion, it will assist it in the formulation of general rules for the guidance of the Ombudsman in the exercise of his functions under The Ombudsman Act, or which may otherwise, in the Committee's opinion, assist it in reporting to the Legislature in accordance with its terms of reference. (Fifth Report, 1978, p. 99-100)

As the Committee has stated in its previous reports, it will continue to receive and consider these communications. However, it will only invite comments in person if it considers that the subject matter raised in the communication is such that would assist the Committee in carrying out any part of its terms of reference.

The Committee notes that a number of the communications received from the public deal with comments and concerns expressed respecting the Ombudsman's investigative and related procedures concerning a particular complaint which, as of the date of the communication to the Committee, had not been finally investigated or resolved by the Ombudsman. Generally, the Committee considers these types of communications to be premature. As a matter of general policy the Committee will not consider a concern of a complainant before the Ombudsman has issued a report or taken other appropriate steps pursuant to The Ombudsman Act. Any comments or concerns at that stage should be addressed to the office of the Ombudsman for discussion and, if possible, resolution. (Ninth Report, 1981, p. 9-10).

The approach to communications from the public set out below is agreed by the Committee and the office of the Ombudsman to work well.

PRINCIPLES

1. At all times and in all circumstances, the committee sets its own procedures and determines how communications are to be handled, subject to the provisions of the Committee's order of reference and to the provisions of the Ombudsman Act.
2. The Committee has consistently declined to act as a "court of appeal" on decisions by the Ombudsman, or as an "Ombudsman on the Ombudsman".
3. Each case raised by a member of the public will be individually considered and decided by the Committee on its own merits.
4. No one has an automatic "right" to appear before the Committee. The Committee will review the documents in each instances before deciding whether to extend any invitations to appear before the Committee.
5. Except in very unusual circumstances, all information, correspondence and reports exchanged between the communicant and the Committee and between the Ombudsman and the communicant are shared between the Committee and the Ombudsman. Because of the confidentiality required by the Ombudsman by his Act, documents exchanged between Ombudsman and persons and organizations other than complainant are not released to the Committee, except as they may be quoted or cited in the Ombudsman's report to the complainant.
6. The Committee reviews the documents supplied to it and takes its decisions at an open, public meeting, but names of communicants are not used and the documents do not form part of the Committee's public record.
7. In dealing with persons who communicate with it, the Committee and its staff should be careful not to raise false hopes of possible favourable resolutions of complaints or problems.

8. The Committee will not consider any communication if it involves a complaint which the Ombudsman is still investigating or may still investigate.

PROCEDURES

**(Exceptions to these procedures will,
of course, occasionally be required.)**

1. Letter is received by Chairman or clerk directly from members of the public or by referral from the Speaker or other MPP. (If first communication is oral, clerk or Chairman should ask that, if at all possible, the matter be put in writing for the Committee's consideration.)
2. Clerk acknowledges receipt of letter on behalf of Chairman. Letter from clerk is non-committal, indicating that the Committee will review the letter and the issues raised in it before deciding either to pursue the matter in detail or to invite the communicant to appear before the Committee. The clerk should also make it clear that, due to the Committee's schedule, it may be some time before the Committee will consider the complaint. Letter includes statement authorized by Committee setting out its policy on communications from the public (see Appendix A). If not included with original communication, clerk solicits copy of Ombudsman's report to complainant and other relevant correspondence from Ombudsman to communicant (for example, Ombudsman's responses to previous letter of criticism from communicant).
3. Clerk forwards copy of letter and any documents to Ombudsman. (Ombudsman may obtain written authorization from complainant so that otherwise confidential documents exchanged between Ombudsman and communicant may be released to Committee via the clerk or the counsel.)
4. Clerk meets with the staff of the Ombudsman to discuss communication. Clerk selects for distribution to Committee such documents as seem relevant. At a minimum, all written submissions from communicant and the Ombudsman's report to complainant (or letter indicating that the Ombudsman will not be investigating) should be distributed to Committee. Normally, only pro forma acknowledgments, covering letters and obviously extraneous material should be excluded from material provided to Committee.

5. Clerk removes names and identifying references to communicant, Ombudsman staff and others from all copies of documents. In order to preserve comprehensibility, initials of surnames may be retained.
6. Clerk provides anonymized documents to Subcommittee on Communications from the Public (see Appendix B for terms of reference) with covering memo summarizing the case and highlighting principal issues to be decided by Subcommittee.
7. In a public meeting, Subcommittee reviews documents with clerk and with Ombudsman's representatives. Documents do not form part of Committee's or Subcommittee's public record.
8. In a public meeting, the Subcommittee decides what action to take:
 - none
 - further correspondence with communicant
 - refer specific case, or issue raised by case, to full committee
 - other
9. If Subcommittee decides to take no further action, Chairman writes polite, but firm letter indicating that Committee has declined to pursue the matters raised by the communicant. If appropriate, without discussing merits of the case, Chairman indicates Committee's principle of not "second guessing" the Ombudsman.
10. Once Committee has concluded its consideration of a specific case, clerk collects all documents provided to Subcommittee and destroys them. Clerk retains file copy, which is not public and is never transmitted to Archives.
11. If communicant is not satisfied with Subcommittee's decision, the Chairman informs him that Subcommittee will only reconsider matter if "new information" is available, and only then if the new information is first made available to the Ombudsman for possible reconsideration of his conclusions. Until the Ombudsman decides not to reopen a complaint or, having reopened the complaint, reaches a conclusion on it, the Subcommittee will not further consider the matter.

APPENDIX A

**INFORMATION FOR PERSONS WHO CONTACT
THE SELECT COMMITTEE ON THE OMBUDSMAN**

Authorized by the Committee

People write or call the Select Committee on the Ombudsman for a number of reasons. For example, they request that the Committee reconsider or reinvestigate complaints which the Ombudsman has investigated; they request that the Committee overrule conclusions reached by the Ombudsman with which they disagree; they complain about the methods or the motives of the Ombudsman's staff; they offer suggestions for the improved operation of the Office of the Ombudsman or of the Ombudsman Act; and they request an opportunity to appear in person before the Committee for a wide variety of reasons.

The Committee has established a subcommittee to deal with all such communications received by the Committee. This Subcommittee is composed of MPPs of all three political parties represented in the Legislature and is chaired by a Member of the Opposition. Its decisions must be unanimous; if any Member of the Subcommittee disagrees with any proposed action, the matter is automatically referred to the full Committee for consideration.

The Subcommittee individually reviews each submission to it, primarily on the basis of documents supplied to it by the person who has contacted the Committee. Whether or not the person requests it, all documents are treated confidentially; that is, they are not made public. Moreover, the names and identifying references to all persons mentioned in the documents are removed by the Committee staff, so that the Members of the Subcommittee will not know the names of the persons involved. This is done to ensure complete impartiality in the subcommittee's review of the case.

All documents provided to the Committee are also supplied to the Ombudsman for his consideration and possible reply. Occasionally, the Ombudsman

will request the person who has contacted the Committee to sign a release form so that he may supply certain documents to the Subcommittee without contravening the confidentiality requirements of the Ombudsman Act.

Although the Subcommittee reviews each matter submitted to it, and decides each one on its individual merits, it is most unusual for the Subcommittee to recommend any action, or to grant a person's request to appear in person. This reflects the Committee's strongly held view that, except in the most unusual circumstances, the Committee should not even consider intervention in complaints investigated by the Ombudsman. The Committee has consistently refused to act as an appeal body for cases in which persons who have complained to the Ombudsman are not satisfied by, or disagree with, the conclusions reached by the Ombudsman. Otherwise, the Committee would simply be taking over the Ombudsman's job, and this is not what the Legislature intended when it created the Committee.

The Committee welcomes comments which may help to improve the service provided by the Office of the Ombudsman to the people of Ontario, but it will normally not become involved in individual cases.

Questions about any of the foregoing should be directed to the clerk of the Committee.

APPENDIX B

TERMS OF REFERENCE FOR
SUBCOMMITTEE ON COMMUNICATIONS WITH THE PUBLIC

Ordered, That a subcommittee be struck to consider on the Committee's behalf communications from the public; the subcommittee to be composed of the following Members: Van Horne (Chairman), Runciman and Philip with a quorum of 3; substitution shall be permitted on written notice. All communications from the public to the Committee shall be referred to the subcommittee, which shall review and respond to them, provided that all decisions by the subcommittee shall be unanimous; any matters which are not decided unanimously by the subcommittee shall be considered by the full Committee. The subcommittee shall report to the Committee, for consideration by it, any matters which in the subcommittee's opinion warrant the full committee's attention. The subcommittee shall, subject to direction by the Committee, determine its procedures.

(Committee Minutes, September 29, 1983)

APPENDIX C

SAMPLE LETTER

Dear Mr. :

The Select Committee on the Ombudsman has reviewed your letter to me of March 10, 1984, and the enclosed documentation.

The Committee reached the decision that it should not pursue this matter. In the Committee's opinion, it cannot and should not, except in the most extraordinary situation, consider cases in which complainants disagree with, or are not satisfied by, the Ombudsman's conclusions. Otherwise, we would simply be taking over the Ombudsman's job and this is not what the Legislature intended when it created the Committee.

I wish to emphasize that in deciding not to pursue this matter, the Committee is in no way agreeing or disagreeing either with the Ombudsman's conclusions or with your comments about the Office of the Ombudsman. To repeat, the Committee does not, as a general policy, believe it should act in matters of this nature.

Yours truly,

Ron Van Horne, MPP
Chairman
Subcommittee on
Communications from the Public

